



MEETING SUMMARY

CALIFORNIA WATER PLAN UPDATE 2013 TRIBAL ADVISORY COMMITTEE MEETING

9:00 AM – 4:00 P.M.

**CENTER FOR COLLABORATIVE POLICY
815 S STREET SACRAMENTO, CA**

MEETING OBJECTIVES:

1. Provide Tribal AC Updates and Reminders
2. Discuss Tribal Water Summit Design Teams
3. Review Tribal Water Summit Work Plan

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Welcome, Introductions

Kamyar Guivetchi, DWR, Manager, Division of Statewide Integrated Water Management, extended his thanks to all those who joined the meeting. He noted that it was a full day with quite a bit of work ahead, especially with the Tribal Water Summit planning in the afternoon. Mr. Guivetchi emphasized the importance of the work of the Tribal Advisory Committee to the Water Plan. Stephanie Lucero, Tribal AC Facilitator, reviewed the day's agenda and groundrules, and introductions were made.

IRWM Report

Stephanie Lucero, reminded participants that the Integrated Regional Water Management (IRWM) Report brings forward work that began about a year ago. The report is in draft form and not for distribution. The draft has not yet been vetted with IRWM, although much of the content was obtained from DWR. The goal is for participants to review the draft and provide comments to help refine the document.



Ms. Lucero recapped that, initially, the Tribal AC members had questions about the IRWM program – especially Tribal involvement with IRWMs. One of the Tribal AC meetings featured a presentation and discussion on IRWM, including: overview of the program, how Tribes can be engaged and some of the challenges that Tribes might encounter.

As a result of that meeting, it was decided that additional information was needed, with a report on issues that Tribes have. The draft is now available for review. The goal is to create a reference document that can be distributed. Statutory language can be evaluated for potential revision.

A graduate student is researching Tribal involvement in IRWMs and will be developing potential recommendations for effectively engaging Tribes.

Discussion

Comment: North Coast IRWM is accepting applications for a Tribal liaison, who will promote and coordinate the participation of Tribes in the IRWM.

Comment: The North Coast IRWM is proposing a name change to North Coast Resource Partnership.

Comment: The North Coast IRWM solicitation for Prop 84 funds is out and the Tribes have representation on the Technical Review and Policy Review panels

Comment: Tribal representation needs to include full member and voting status.

Comment: The Tuolumne Band is not a signatory, but participates in the Tuolumne-Stanislaus IRWM and sits on the Technical AC. The Tribe submitted two projects for the Rancheria, and a joint project with two district providers.

Comment: Waivers of sovereign immunity cannot be on the table.

Comment: There's a question of IRWM project proponents having to "adopt" the IRWM plan. What does that mean?

Response: There will be some information will be provided in the 2012 guidelines.

ACTION ITEM: Attach a best practices appendix to the IRWM report, or provide an example of the North Coast IRWM. Contact North Coast IRWM to write up the approach that is being used. For example, MOU, Tribal designees on the IRWM governing board.

ACTION ITEM: Add page numbers. Include table from Michelle Dooley with IRWM groups and where there is Tribal participation.

ACTION ITEM: The bulk of the money has yet to be spent (phases 2 and 3 were mentioned), but is shaped by previous planning activities.

ACTION ITEM: Add status update on IRWM program and future direction from the Strategic Plan. Meet with the IRWM Strategic Plan team to assure an active Tribal engagement component.

ACTION ITEM: Tribal AC members to review the draft IRWM report and provide comments.

ACTION ITEM: Provide Jennifer Wong's contact information to Danielle Dolan.



Objective 12 Recommendations

Tribal Liaisons

Kimberly Johnston-Dodds, DWR Tribal Liaison, thanked all the participants for coming and expressed her appreciation for everyone's involvement. She began by relating how she's come to know the Regional Tribal Liaisons. It's been a pleasure to work with these individuals who have a wealth of expertise. Ms. Johnston-Dodds asked the Regional Tribal Liaisons to provide some information about themselves, to help the Tribal AC members get to know them. They bring substantial institutional knowledge and are doing this work because of their own interests and desires in assisting with Tribal involvement. Tribes can also receive technical information and contact the regional offices through the Regional Service Representatives. The following descriptions were shared:

- Jennifer Wong, Southern District, is a civil engineer and has been assisting with the Water Plan since 2005. She looks forward to supporting efforts to improve Tribal-State relationships. Ms. Wong has been helping draft content for IRWM and Regional Report information. Jennifer is also the Regional Service representative for the South Lahontan region.
- Abimael Leon, South-Central District, holds a PhD in ecology and researched ecotoxicology – which looks at environmental contamination and brings in a water quality aspect. He has been working for more than 5 years in river restoration planning and implementation. Tribal AC members are encouraged to meet and work with Mr. Leon, who works with the inter-agency teams working on the San Joaquin River Restoration.. Abimael hopes to integrate Tribal perspectives in water management efforts.
- Michelle Dooley, South-Central District, is an engineering geologist – and very well informed on IRWM. She has helped Kim in figuring out connections with other plans. There are many different entities within water resources that have historically not been well-connected and Ms. Dooley has an excellent grasp of that.
- Tim Nelson, North-Central District, has been with DWR for 19 years. He is very involved in the Carson, Truckee and Walker basins and the Truckee River Operating Agreement. Mr. Nelson helps bridge the operating perspective, project perspective and larger integration with the grant and funding component. He is also a member of the Karuk Tribe and has good connections throughout the State.
- Tito Cervantes, Northern District, is a story-teller who cares about working for the people of California. He has been part of many conversations on ways to provide information and tools to California Tribes. Mr. Cervantes has been with DWR for 25 years and is working on his fifth Water Plan. He remarked that it's been quite the journey, and the process is always improving. He is excited for the future and supporting Tribal efforts.
- Mary Randall, Northern District, has an engineering background from Notre Dame and UC Davis. She brings significant experience integrating on-the-ground aspects. Her work with the Army Corps of Engineers provides a link to Federal-State connections; she also spent 22 years with the State and Regional Water Boards. Ms. Randall serves as the IRWM regional office lead and Tribal liaison. Her interest is in working collaboratively to solve problems. In her off-time she likes to camp and bicycle.



Progress Report

Ms. Johnston-Dodds described the progress report as an amalgamation of multiple places in the Water Plan. This includes the high-level highlights document, as well as Volume 1 which provides the implementation plan for all objectives – including Objective 12 on improving Tribal water and natural resources. The Progress Report presents the related actions for Objective 12 and represents a compendium of comments. Columns were added to each action item to capture the discussion on how to measure progress.

The Progress Report can help with funding and can help in a tangible way. Another question is how do the 2009 Tribal Water Summit recommendations fit into Objective 12 and the related items? There was frustration that the Tribal voices from the Summit were not better reflected in Objective 12. The 2013 Tribal Water Summit is occurring in April, which will provide time to determine which aspects are vitally important to include in the 2013 Update.

Emily Alejandrino has been invaluable in orienting Kimberly to the different pieces of Tribal content. Ms. Alejandrino compiled a chart to display recommendations from the 2009 Tribal Water Summit, to better assess and demonstrate the progress made on these items. It will be important to dovetail these aspects into the Tribal objective for Update 2013, and increasing the consistency between the Summit recommendations and the Objective actions.

Another summit recommendation (#15) is that DWR should prepare a work plan for Tribal issues. Current DWR upper management has communicated its support to develop such a department-wide work plan, and Kimberly has made it one of her top priorities.

In the past few months, tribal representatives and DWR staff have raised certain issues and concerns (site-specific, procedural and policy level) to Ms. Johnston-Dodds related to the protection of cultural resources and DWR protocols. Kimberly has communicated them to DWR upper management as requested, and she is working on them with DWR staff and tribes to solve the issues. These recent examples have brought to light the need to develop consistent department-wide guidelines and procedures related to cultural resources. DWR Management has asked Ms. Johnston-Dodds to work on this effort in conjunction with the DWR tribal work plan. Recently, DWR has increased the cultural resource staff to three archeologists who will be assisting in this task as well.

The Tribal work plan and related guidelines align with the Resources Agency consultation policy framework, which supports having the guidelines in place as well as protocols for government-to-government relations. Kimberly is approaching these various aspects in an integrated way within DWR and with California Native American Tribes. She invited Tribal AC members to work with her on these documents and initiatives, and looks forward to working with them to better understand and include Tribal concerns.

Other summit recommendations were briefly discussed:



- #17, DWR executive coordinator of Tribal issues – addressed by hiring of Tribal Liaison and Regional Tribal Liaisons
- #22, mapping of watershed resources, while respecting culturally sensitive information – this is tied to the Water and Culture RMS. In the upcoming Tribal Water Summit, one of the key themes is Tribal Ecological Knowledge which includes Tribal values and the interconnections with all resources.

Discussion

Comment: Are we here today looking at evaluating the goals from the previous TWS, or looking at framing goals for the upcoming TWS?

Response: The 2009 recommendations are basically a done deal. The chart reports to you what's been done on the recommendations directed towards DWR. Hopefully, this will help move forward from the perspective that nothing's been done. Quite a bit has been done and can be built on. Work that still needs to be done can be incorporated into future Water Plans. In 2013, we can look at the universe of policies and commitments as broadly as possible – beyond material resources and including values, landscapes and cultural resources. There is a unique opportunity for drafting inter-connected policy and implementation guidelines in tandem, which do not happen as often as it could at the state level. Kimberly encouraged Tribal AC members to work with her to see what can be done together.

Response: The Progress Report was a recommendation to check and see how recommendations are, or aren't, being implemented.

Question: When I look at what came out of the last Tribal Water Summit, the results look like a laundry list. For the 2013 summit, will there be an effort afterwards to pare the list down to a real workplan for items that make sense? If we make decisions and develop a work plan, by identifying components of the plan that are broad policy statements (such as, indigenous community should be involved in climate change, etc.) then commitments are made to move that component along. Progress would then be judged in terms of progress towards achieving those components.

Response: The Summit agenda is proposing that some recommendations and ideas be formed into a workplan on Day 2. Also, make sure to separate TWS recommendations and Progress Report (which is Objective 12).

Response: In moving from a Water Plan focus to a broader, department-wide focus, where will we work at a Tribal AC level or liaison level? We can shape that before Update 2013 concludes. There are many opportunities that have support from upper management. There are concerns and immediacy for action needed on cultural resources issues..

Over the next 10 years, DWR has large future projects and initiatives such as federal relicensing, flood planning projects and programs and other operations where there will be the opportunity to implement a department-wide work plan and guidelines that could integrate and include Tribal perspectives and concerns. This is why Kimberly is offering to work together on this. She



suggested setting up a working group, for example, to start to work on policy documents and guidelines. There is also DWR protocol for creating these documents. Kamyar Guivetchi has been working with Kimberly and informing her of the DWR governance process and mechanisms in place that inform developing and implementing policies and guidelines. The Regional Tribal Liaisons have also helped Ms. Johnston-Dodds think about how this works within the Department. Other state agencies have provided commitments to help share their experiences and insights on their programs for Tribal coordination, communication and engagement. There may be other California and federal agencies that have successful programs and processes in place that can serve as examples to review and consider.

Kamyar Guivetchi commended Kimberly for taking on this effort, which will be a very involved process. While we move towards integrated water management, we need to understand that we still live in a world of silos. In working on Update 2013 and the 2013 Tribal Water Summit, being mindful of siloes will inform expectations and understandings about next steps. Kimberly is DWR's Tribal liaison and she can do a lot within DWR. Ms. Johnston-Dodds is also part of the Water Plan, which is a multi-agency effort. The Tribal AC also informs DWR and the Water Plan. Through the Water Plan, Tribes inform the State Agency Steering Committee. Objective 12 came from the Water Plan, informed by the TWS. Summit recommendations must be clear about to which agency they are directed. Who needs to act on each recommendation?

Question: Many of the related actions for Objective 12 are directed towards Tribes. Why is the State involved in in preparing a document that says how Tribes interact with others, including Federal agencies? The focus should be on Tribal-state interactions.

Response: Most of the related action for Objective 12 came from the draft Tribal Communication Plan. Your point is well-taken. Objective 12 for Update 2013 can pull from multiple sources (the TCP, TWS). The Tribal Communication Committee was not a representative body and there was a looser set of recommendations. This Tribal AC is in a position to make better, more specific recommendations.

Response: Update 2013 is looking to this Tribal AC to develop recommendations.

Comment: When looking at the Progress Report, some ratings of "poor" may not reflect poor performance but may indicate a low priority.

Response: Some of the related actions didn't identify ultimate outcomes weren't identified – they represent overarching objectives. The 2013 recommendations need to be clear on what we want to accomplish and how it might be accomplished.

Comment: Some of the 2009 and 2013 TWS Recommendations will become part of future DWR policy and guidelines. This will extend beyond the Water Plan to other DWR divisions. How these are implemented may currently vary within DWR. The goal is to create more consistency in terms of how DWR works with Tribes.

Comment: We will look to the Tribes for advice on how to increase consistency.

ACTION ITEM: Send out Progress Report and TWS DWR-recommendation charts.



Water Plan Content Items

Update 2013 Tribal Objectives

At the Jan. 24, 2013 Tribal AC meeting, members will be developing recommendations for Update 2013. It will be helpful to know what was suggested in the past. Tribal AC members were asked to review TWS recommendation and Progress Report action – and what needs to move forward and how it might move forward. For larger initiatives, that extent beyond the five-year update cycle, a phased approach may be needed with a description of steps.

Discussion

Comment: Recommendations need to be focused for action and outcomes, agency staff are not paying attention.

Comment: As a sovereign government, Tribes have state rights. Not many people get that. The onus is put back on Tribes. That's the basic starting point. There needs to be an understanding of sovereignty and respect for a level of governance in opening up. When talking about CalTrans and FERC processes, the focus is on the "site" and "artifact" when there needs to be a broader discussion on sense of place and cultural materials. The cultural perspective is more integrated and inter-dependent. The agency approach is linear. There needs to be an understanding of the larger ramifications.

Response: Kamyar Guivetchi noted the recognition that objectives and actions were written too vaguely, makes it hard to be accountable. Update 2013 is looking for SMART objectives (specific, measurable, achievable, realistic and time-scaled) that are clear on who is expected to take action. Also, while the Water Plan must be updated every 5 years – it requires nothing and doesn't allocate anything. Water Plan recommendations are not automatically implemented – they are presented for review and consideration.

Comment: Different approaches for managing resources and water need to be respected and incorporated into the way that agencies do their work.

Comment: Everyone needs to be on the same page, working together for real solutions, not band-aids. We're not taking care of the water or wildlife. Fish are affected by agricultural discharges. That's what the agencies need to know. They say they've heard about it, but no solutions are proposed. It's important to come together, to create solutions from the bottom-up.

Comment: Let's not specify groups, such as gaming Tribes. It would be better to say, "Provide more resources to get Tribes coming to the meetings." There are so many Tribes focusing on critical water issues. Tribes can't always pay for travel. Larger Tribes can help sponsor. How do smaller Tribes get brought in? Do people go up to them?

Response: There is reimbursement for travel and scholarships for the TWS. The Tribal liaisons are reaching out to engage all Tribes.

Question: Are we providing enough opportunities for Tribes to engage?



Comment: Financial and political/legislative support is also important.

Response: Recommendations for improving Tribal engagement should help revise the TCC.

Perhaps agencies can partner and leverage their resources to engage Tribes. Different agencies have different regional offices that can be used.

Comment: Positions in Tribal governments often involve one or two year assignments.

Institutional knowledge isn't passed on, people don't know how to connect with agencies.

ACTION ITEM: Tribal AC members to review 2009 TWS recommendations and consider which ones need to move forward – and clarify what is being sought. This will be discussed at the January 24th Tribal AC meeting. (This ties back to the TWS Survey, will send link.)

Tribal Communication Plan

The Tribal AC Communication Plan is delayed until more details are released regarding the Resources Agency consultation policy. It's not clear when that will come out.

ACTION ITEM: Circulate the current draft of the Tribal Communication Plan.

Other Water Plan Elements

ACTION ITEM: Tribal AC members to suggest photographs for the Culture and Water RMS.

ACTION ITEM: Send production timeline to Tribal AC. Include URL to RMSs and Regional Reports.

ACTION ITEM: Send out Regional Reports comment dates. (Get from Lew – What's the date when people will see comments incorporated and still be able suggest revisions?)

Working Lunch – Charter Change

The Tribal AC members discussed a request from the California Indian Water Commission to revise the Tribal AC charter to allow 638-designated organizations to sit on the Advisory Committee. It was noted that 638 designations are supported by Tribal resolutions, and there is authority that comes with that.

One concern is whether dual representation might occur. For example, could the four Tribes of the CIWC appoint their own Tribal representatives, then have the CIWC appoint another representative? It was noted that Owens Valley Indian Commission is the only other Commission that is on the Tribal AC, and their representative is also the delegate for the Bishop Paiute Tribe.

There was a comment that obtaining a 638 designation is difficult. Tribal politics can come into play, which is unfortunate. If Tribes are not appointing representatives to serve on the Tribal AC, that has to be upheld. There was a question as to which four Tribes comprised CIWC, which is unknown. Another question asked if there were other 638 entities that might want to participate.



There was a question as to whether the charter should say that a 638 entity is eligible for serving on the Tribal AC. Within the room, 5 Tribal AC members stated that the charter should not be changed, 2 members leaned towards not changing the charter and 3 members abstained. It was suggested that the CIWC use existing options for representation, such as a designation from one of the member Tribes.

There was no support for a charter change at this time; the Tribal AC fully supports using the other venues available.

It was also noted that additional Tribal AC representatives are being sought for the Public AC. Aaron Dixon is submitting his name to his Tribe for consideration.

Public Comment

- Rob Cozens, Resighini Rancheria, provided an informational item on **wave-powered desalination**. The Tribe is trying to raise public awareness and broaden conversations on this topic. In looking to the west for additional water, California has a unique opportunity with 27 oil platforms due to be decommissioned. With these platforms, the State could develop wave-powered desal with less environmental cost when compared to building a new facility. This would be a positive use of existing platform.
- Eric Alvarez, with Delta Stewardship Council (DSC), explained that the Council is leveraging Tribal AC meetings to provide information on the **Delta Plan**. The Plan assists agencies with projects located within the legal Delta and Suisun Marsh. A recirculation of the Plan's programmatic EIR will be released in late November.

The rule-making process associated with all the Plan policies will also be released. Through the Delta Reform Act of 2009, the DSC has been given the opportunity to draft laws regarding Delta management. Policies in the Draft Plan need review by the Office of Administrative Law to become regulations. The Plan will be adopted by DSC in the middle of 2013, when the Plan will have the effect of law.

Mr. Alvarez provided materials containing background information and the overall timeline. Tribal AC members are welcome to contact Mr. Alvarez to schedule a meeting with the DSC Chairman, Phil Isenberg. The DSC can provide more information on the program, as well as inform Tribes on how to participate in the final development of the Plan. The Final Staff Draft of the Delta Plan is available on the DSC website at:

<http://deltacouncil.ca.gov/delta-plan>.

Discussion

There were comments that IRWMs and Tribes are really concerned with the Delta Plan. There is a concern that fee lands will be paying quite a bit of money on this Plan.

There was an inquiry as to whether the Tribal AC would like to invite Chairman Isenberg to



a meeting, to get into greater detail. It was suggested that the DSC needs to consult with the Tribes separately, since some Tribes are affected more than others. It was noted that Tribes in the Sacramento Valley will be impacted through lease lands and trust lands.

Question: How does the Delta Plan relate to the Water Plan?

Response: The Delta Plan will be a companion plan in Update 2013. Also, the Delta Plan fits within the context of the TWS theme of watershed management and land use – since it is a plan that affects Tribes.

Tribal AC members discussed options for having a fruitful discussion with DSC at the January 24, 2013 Tribal AC meeting – since the Delta Plan relates to the Water Plan and the TWS. It was noted that some Tribes, who do not drain into the Delta, have received a lot of information and outreach. Other Tribes, who are directly affected, have not received information.

ACTION ITEM: Reno Franklin and Oscar Serrano will develop questions to DSC by December 14, 2012. Julie Griffith-Flatter will develop questions relating to the TWS watershed management theme. These questions will be sent to the Tribal AC and TWS planning team for review and feedback, then forwarded to DSC in advance of the meeting. Sample questions include:

- Will the Plan impose taxes on fee lands?
- Which Tribes have they contacted? Where did they obtain Tribal contact information?
- Does the Plan address conditions in the upper watersheds?

ACTION ITEM: On behalf of the Yocha Dehe, invite Chairman Isenberg to the Tribal AC meeting on January 24, 2013.

- The agenda for the **Water Boards Tribal Water Training** on November 9, 2012 has been extended to 2:30 p.m. The training is now scheduled from 9:30 a.m. – 2:30 p.m.

Tribal Water Summit

Stephanie Lucero introduced this agenda item as a joint meeting to review and brainstorm agenda items for TWS. Planning worksheets were distributed for each of the three topics. The worksheets identify key elements for developing agendas for each theme

- what the topic will cover
- how the information will be presented
- goals and deliverables for the topic
- type of implementation approach or work plan that might emerge from the second day.



Indigenous Rights to Water

Some initial thinking has gone into framing the Indigenous Rights to Water theme. This should be presented in a way that doesn't trigger an immediate association with legal water rights and challenges to existing water rights. The concept is to establish a context looking at the broader issues between Tribes and water:

- protecting all waters that support physical and cultural continuation
- recognizing indigenous rights to water
- sustaining traditional practices, resources and access
- supporting habitat and ecological health

This is a broad framework and would benefit from some additional focus and direction.

When thinking about indigenous rights to water, we think about the UN Declaration – every form of law, throughout history, contains an acknowledgement about people have a relationship and right to water. That fundamental relationship to water is what this topic is looking to convey, to understand what relationships to water mean for culture, for individuals. This will help expand the discussion about Tribal needs and perspectives on water. Water rights are all of those things.

Discussion

Comment: What are we looking for beyond acknowledging there is a human right to water? The major issues are legal issues. Water rights are whatever the adjudication says. There are major strides being made by Tribes (for example, the Cherokee and Navajo) through negotiations rather than lawsuits.

Comment: There are other things going on – sometimes lawsuits will force the negotiations.

Comment: There are adjacent rivers, the Scott and Shasta, with different legal direction. The adjudication for the Shasta River says that everyone contributes when there are inadequate flows. For Scott River, junior rights are cut first. On the Scott River, water flows so low that salmon are waiting for water to rise. USFWS has water rights there, but doesn't want to enforce them. This is an area where the state should legislate that water rights are administered on the same basis for all rivers, not conflicting approaches to addressing the shortages.

Comments: There are no storage options on the Scott River to help exercise water rights.

Stephanie Lucero recapped that it sounds as though indigenous rights to water come down to legal issues. Fundamentally, water rights have not been resolved statewide. A solution won't be developed unless people are pushed (through litigation). Nobody is talking about water rights in the same way. People need to talk about water and use the same language. An open discussion about ideas related to Tribal water needs would help create a foundation of understanding for future negotiations.



Comment: People want to come to the table with things that can be done. Getting people to structure things differently is almost impossible, since the water is worth so much. People don't want to open things back up. What would be realistic to do? Talking about the broad scope of water rights is a good beginning.

Comment: There is a lot that can tie into this: the use and crossing of rivers for ceremonial purposes. The basic right to water, as an Indian person, is reflected in the ceremonies that honor and fulfill our agreements with that water, which extend back to when we first came into this world.

Question: Where does agricultural water get addressed? Tribal people have been growing crops for hundreds of years. It wasn't considered "farming" it was part of tending to the land. Water was diverted, and always with some type of ceremony.

Comment: In terms of "agriculture," Native Americans depended on indigenous plants and species. Tribes didn't actually collect and diver water, nature provided the water. Diversions today pose a definite threat to those species – the water is being taken elsewhere. If the water is not available naturally, the plants will disappear. We have a right to water, because our cultural plants and uses need that water.

Comment: The planning team discussed using case-studies to illustrate different aspects of a given topic. That needs to include situations in Southern California. There is green energy going through and over Tribal lands. That will affect their agriculture and their ability to divert water on their own Tribal lands. That is also an aspect of land management. All these topics overlap each other.

It's true that water wasn't diverted for supporting native plant species, and that's where traditional ecological knowledge came in. For our Tribe, agriculture was small-scale and provided for subsistence and medicinal and ceremonial uses (not commercial). We don't think of it as agriculture, we think of it as "we need to tend to this or that." All of that was based on seasonally growing and harvesting. Agriculture will be discussed as a case study in the Summit.

TEK and traditional uses are not set in a book. We want to convey and share the overlap of indigenous needs, TEK and watershed management. The planning team also talked about enforcement. We understand about water right allocations which often negatively impact Tribes – because we are not at the table when those agreements are made, we have to live with the consequences. It will be important to showcase both the battles that are going on and progress that has occurred.

Comment: Indigenous agriculture included leaching acorns. It has expanded to farming efforts. The concept of agriculture is as defined by Tribes, it may not be traditional.

Comment: Subsistence relates to the aspect of sustaining lives – something that can be harvested and used. There are Tribes that don't have access to water at all, which limits how they can survive or economically develop their Tribal lands. Some of these Tribes had historic access to nearby water sources, which are now on private lands and can no longer be accessed. Table Mountain and Big Sandy are examples that come to mind. Table Mountain now trucks their water in, but they are only two miles from a lake.



The facilitator asked if framing this larger context for water “rights” would be helpful. The following responses were provided:

- Some will not be receptive to thinking about a broader context for water rights. They think Tribes have leveraged enough access to water.
- Knowledge is always a good thing. Conversations help open the door a little. Progress in this area requires that we use opportunities to have the conversation. People think they understand the topic, but they really don't.
- The only way to improve the conversation is to open the communication and help create a fuller picture of what is going on. It requires understanding and responding to questions, so that others get a better understanding.
- Sometimes we have to be a storyteller. The dustbowl drought had devastating effects on individuals, families and to the economy and farmers who lost their homes through no fault of their own. When people can start seeing themselves in the worst situation, there may be opportunities for compassion and empathy that, even in these modern times, Tribes don't have the capacity for developing new endeavors.
- In some agencies, staff ask “Why don't they just move?”
- The phrase “Indigenous Rights to Water” may discourage participation from those who equate the topic with water rights. Using a phrase, such as “Indigenous Uses of Water” might help bring people in the door. We don't want a topic that gives people an excuse to not attend that session. Legal water rights can't be solved at the TWS; that's something that would have to be looked at for the long-term.
- It would be powerful if Tribes – and others – knew what Tribal legal rights were.
- The problem with “indigenous rights to water” is that Tribes understand that larger context and others don't. For Tribes, water is not to be bought and sold. Others see it as a commodity. It's essential to Tribes for life, and essential to communities for economic development. It could be compared to air: it's not viewed as a commodity and it's essential to life.
- There's ignorance and misinformation. Some people don't believe that indigenous rights should have a special category – that Tribes should use the same process as everybody else for water rights. The biggest misconception is that all Tribes have casinos.
- There are fears, strong emotional responses, regarding indigenous rights to water. We need to break down fear. There are fears of competition and unraveling what agencies have been working with for years. We need to get past the mentality that the Tribes will take down the existing infrastructure.
- The perception is that Tribes with casinos have their needs met – when that may not be the case. Conversely Tribes don't get recognition for helping to implement local projects.
- High quality water is needed. All of our senses are affected by the quality of water. There is a different timeframe: Agency perspectives are tied to career and agency timelines. Tribes look at sustainability over many generations. When asked “why don't you move?” - we can't leave buried people.
- When looking at the broad scope of water uses, it's essential to raise the cultural issues.



ACTION ITEM: Reno Franklin will contact John Echohawk, from NARF, to see if he is interested in speaking at the conference. He could help frame water rights from a national, local and Tribal perspective. It was suggested that he focus on California water, and large water systems from neighboring states (e.g. Colorado River). Provide some case studies, bringing in partners from agencies to show successes.

ACTION ITEM: Send out an email to entire Tribal AC, asking about Andrea Carmen with the United Indian Treaty Council as a potential speaker for the TWS.

This topic will focus be on why and how it's important to understand the broader context associated with indigenous rights to water:

- International perspectives: UN DRIP; who speaks for the indigenous tribes of Mexico?
- National/Federal perspectives: legal issues that Federal Tribes might encounter, especially for how it plays out in California; Trust land concept
- Tribal perspective: Might want to start with an elder's perspective of where the water comes from: the creator, the heavens - water doesn't come from the tap. We need to convey the spiritual aspect.
- Statewide perspective: AB 685 was signed by Governor Brown on September 27, 2012. The bill declares that "the established policy of the state [is] that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (See Section 106.3 of the Water Code.)

Kamyar Guivetchi remarked that the previous discussion was both helpful and productive. Words do matter, since that's how we filter and perceive information. Expanding the concept beyond "Tribal water rights" to "indigenous rights to water" helps to broaden thinking. "Tribal water rights" invokes visions of legalistic framework – you either go to a Federal agency or the Water Boards to determine water rights. Looking at uses related to those rights will provide a better context for having the legal discussion at some point.

Watershed Management and Land Use

Stephanie Lucero described the concept for this theme, which looks at how external projects affect Tribal lands and communities – and how Tribal projects relate to watershed management. At the last TWS Planning Team meeting, Stephanie Suess presented a case study on the Miwuk and local water infrastructure, with the resulting loss of agricultural water. The Planning Team also discussed issues relating to dams, agriculture, and access. Geothermal and green energy land use impacts were also added as topics. There is a focus on using case studies to illustrate issues.

Ms. Suess explained that the Tribe is located in Tuolumne County, surrounded by Stanislaus National Forest. Even though Hetch Hetchy is in Tuolumne, the county has no water rights. All local water supplies are purchased from PG&E, provided from Pinecrest Lake and delivered by a 100-year old open mining flume – which presents a risk factor for reliability when the flume needs repair. There are also 17 water treatment facilities.



We are appealing to the Water Boards for additional water – our area is under a stage 3 conservation level. Those on Pinecrest Lake don't want water levels lowered. The Tribe can't run cattle after June, as water is needed for potable supplies. The end ag users are out of luck. Cultural gathering areas and culturally-important plants depend on "leaks" from ditches for water. If the ditches go dry, those plants are impacted as well.

We are looking to show connections between forest management and watershed impacts. Catastrophic fires are a major concern. Above the rancheria, there are land use concerns with subdivisions that rely on septs. There are high bacterial levels coming onto the Rancheria. All these things impact the Tribe and larger local community.

Discussion

The goal of this theme is to establish coalitions to discuss shared experience, issues and solutions. It would be helpful to showcase some examples of collaboration for watershed management and land use – and how some groups are dealing with these issues.

Mr. Guivetchi noted that of the 3 themes, this works to establish common ground between Tribes and agencies of the value for a **holistic and comprehensive watershed approach**. Watershed conditions are often affected by land use and development choices. Currently, many activities and programs represent institutional silos. There are different planning efforts, policies, mandates and regulations. With having the agencies there, it's a good time to talk about integrated resource management and **alignment of policies and programs at the watershed scale**. This can inform an integrated, holistic resource management approach. Perhaps on the second day, there could be a discussion with Federal, Tribal and State agencies can discuss options for starting to align policies and regulations that work toward more holistic planning approaches. Sustainability is also part of that conversation.

Ms. Suess explained that the Miwuk Tribe often works with the USFS. They also worked with NRCS for cap plan and EQUIP property. Just trying to work with those agencies' MOAs, versus another type of agreement, to identify what the Tribe and agency think are important – it's a large undertaking. For example, star thistle and pesticide drift onto Tribal property are issues for the Tribe and collecting areas. The Tribe has successfully leveraged quite a bit of funding, by using creative approaches.

Comment: Few agencies would argue the point that specialized programs aren't the best way to manage the resource. The challenge is in making that happen and in changing practices. Showing case studies that work, will be a help. The RCDs have good examples of case studies that have or haven't work. They would be a good resource.

Comment: Not every agency understands the need for a more holistic approach. Funding is typically directed to one type of project, while Tribes are looking at the circle of life. This needs to be emphasized.

Comment: Tribes are the original practitioners of sustainable approaches for resource management, including the use of fire. That could be a key concept.



Tribal Ecological Knowledge

Kimberly Johnston-Dodds and Marlon Sherman are coordinating the Tribal Ecological theme, which connects to the Watershed Management and Land Use theme as well as the Culture and Water RMS. Scientific information rarely recognizes the value of Tribal Ecological Knowledge: science is based on data and TEK is based on oral information and action. A common element linking scientific and Tribal knowledge is that both are based on observation. Tribal knowledge relates information from many, many years of observation.

The goal of this theme is to increase the understanding of – and respect for – TEK by showcasing examples of current efforts and collaborative approaches. There is a desire to represent Mojave Tribal interests in this session, especially since alternative energy projects will have impacts on Tribal areas – including sound impacts.

There is a proposal for a post-TWS TEK conference/workshop. This would provide an expanded venue for discussing how to incorporate into resource management. It would continue the conversation on this theme. The

The MLPA effort is being developed as a Plenary topic. The MLPA originally only recognized two classes of fishing interests: recreational and commercial. After working with Tribes, Tribal fishing interests are now included with separate rules for Tribes. There were also contentious issues regarding loss of access to marine resources.

Discussion

Comment: The Institute for Tribal Environmental Professionals, out of Northern Arizona University might be a presented to help meld TEK and science.

Comment: Humboldt State University had a conference on Traditional Ecological Knowledge in September of last year (2011). Details of the symposium are available online at:
http://humboldt.edu/cnrs/opportunities/traditional_ecological_knowledge_symposium

ACTION ITEM: Look at topics and presentations from the Humboldt State symposium.

Exhibits

Exhibitors will be connected to water and the water summit themes, including poster sessions and vendors who provide demonstrations and discuss the resources used and how trade patterns exchanged resources. Atta Stevenson is the lead on the Exhibits planning team. The Bureau of Reclamation is looking to provide funding to cover the exhibits.



TWS Resolution(s) and Deliverables

The TWS Planning Team is suggesting a voluntary Summit-wide resolution, for participants to take back after the TWS and guide future efforts. The resolution concept would make a statement for Federal-State-Tribal entities to work together collaboratively – and to respect each other and learn from each other – in moving forward on the three TWS themes. Resolutions would be sent to participants in advance, for their review and possible signature at the TWS. Initial signatories would provide the framework for later signatories.

On Day 2 of the TWS, there will be a session to discuss options for advancing efforts on the three TWS themes. This would involve a commitment of resources to working groups, where Tribes can work with state staff to move from broad objectives to resolving issues. The work groups would bring the right people to the table to address specific issues and identify potential deliverables.

Discussion

Comment: A “summit” it implies driving to a conclusion, which is pre-worked in advance. The question is: How much prework can be done before the TWS? Work would need to be done, between now and early March, to frame the topic – coming up with a resolution to say that Tribes and agencies are committed to working on [a particular item]. It might be committing to establish a work group to address a particular issue for each theme. It makes preparation for the Summit that much more meaningful.

Comment: Material from the TWS theme description could provide concepts for resolutions. Initial concepts should be refined for Specific, Measurable, Achievable, Realistic and Time-scaled deliverables, which then form the basis for the resolution.

Comment: Provide resolutions for each theme. For example, “Federal, State and local agencies recognize that Tribal Ecological Knowledge should be addressed in future planning projects, and they use this knowledge to develop environmentally-friendly designs.”

Comment: There are options for individual participants to identify an action that they can take to personally advance each theme. These ideas can roll forward into the implementation discussions on Day Two of the TWS.

ACTION ITEM: See how specific we can be by February or March in SMART deliverables for the Summit resolution (who, what, when, where, why).



Next Steps

IRWM Report

ACTION ITEM: Attach a “best practice” appendix to the IRWM report, or provide an example of the North Coast IRWM. Contact North Coast IRWM to write up the approach that is being used. For example, MOU, Tribal designees on the IRWM governing board.

ACTION ITEM: Add page numbers to the IRWM report. Include table from Michelle Dooley with IRWM groups and where there is Tribal participation.

ACTION ITEM: Explain that the bulk of the IRWM grant money has yet to be spent (phases 2 and 3 were mentioned), but is shaped by previous planning activities.

ACTION ITEM: Add status update on IRWM program and future direction from the Strategic Plan. Meet with the IRWM Strategic Plan team to assure an active Tribal engagement component.

ACTION ITEM: Tribal AC members to review the draft IRWM report and provide comments.

ACTION ITEM: Provide Jennifer Wong’s contact information to Danielle Dolan.

Water Plan Elements

ACTION ITEM: Send out Progress Report and TWS DWR-recommendation charts.

ACTION ITEM: Tribal AC members to review 2009 TWS recommendations and consider which ones need to move forward – and clarify what is being sought. This will be discussed at the January 24th Tribal AC meeting. (This ties back to the TWS Survey, will send link.)

ACTION ITEM: Circulate the current draft of the Tribal Communication Plan.

ACTION ITEM: Tribal AC members to suggest photographs for the Culture and Water RMS.

ACTION ITEM: Send production timeline to Tribal AC. Include URL to RMSs and Regional Reports.

ACTION ITEM: Send out Regional Reports comment dates. (Get from Lew – What’s the date when people will see comments incorporated and still be able suggest revisions?)

Delta Plan

ACTION ITEM: Reno Franklin and Oscar Serrano will develop questions to DSC by December 14, 2012. Julie Griffith-Flatter will develop questions relating to the TWS watershed management theme. These questions will be sent to the Tribal AC and TWS planning team for review and feedback, then forwarded to DSC in advance of the meeting. Sample questions include:

- Will the Plan impose taxes on fee lands?
- Which Tribes have they contacted? Where did they obtain Tribal contact information?
- Does the Plan address conditions in the upper watersheds?

ACTION ITEM: On behalf of the Yocha Dehe, invite Chairman Isenberg to the Tribal AC meeting on January 24, 2013.



Tribal Water Summit

ACTION ITEM: Reno Franklin will contact John Echohawk, from NARF, to see if he is interested in speaking at the conference. He could help frame water rights from a national, local and Tribal perspective. It was suggested that he focus on California water, and large water systems from neighboring states (e.g. Colorado River). Provide some case studies, bringing in partners from agencies to show successes.

ACTION ITEM: Send out an email to entire Tribal AC, asking about Andrea Carmen with the United Indian Treaty Council as a potential speaker for the TWS.

ACTION ITEM: Look at topics and presentations from the Humboldt State symposium.

Attendance

Tribal Advisory Committee Members and Alternates:

John Covington, Morongo Band of Mission Indians
Rob Cozens, Resighini Rancheria
Aaron Dixon, Susanville Rancheria
Bill George, Pit River Tribe
Richard Hawkins, Nor Rel Muk Wintu Nation (is he Tribal AC or other?)
Tom Keegan, Dry Creek Rancheria
Oscar Serrano, Colusa Indian Tribe
Stephanie Suess, Tuolumne Me-Wuk Tribal Council

Others :

Reno Franklin, Yocha-Dehe Wintun Nation
Julie Griffith-Flatter, Sierra Nevada Conservancy
Chuck Jachens, US Bureau of Indian Affairs, Pacific Region
Chris Keithley, CalFire
Kelly Larvie, CalFire
Christina Mokhtarzadeh, US Bureau of Indian Affairs – Riverside Office
Juan Perez, CalEMA
Emily Reeves, Yocha-Dehe Wintun Nation
Atta Stevenson, California Tribal Water Commission

Emily Alejandrino, DWR Tribal Coordinator Work Team Lead
Xavier Tito Cervantes, DWR, Northern Regional Office, Tribal Liaison
Michelle Dooley, DWR, South-Central Regional Office,
Kamyar Guivetchi, DWR, Manager, Division of Integrated Water Management
Kimberly Johnston-Dodds, DWR Executive Office, Tribal Liaison
Abimael Leon, DWR, South-Central Regional Office, Tribal Liaison
Tim Nelson, DWR, North-Central Regional Office, Tribal Liaison
Mary Randall, DWR, Northern Regional Office, Tribal Liaison
Jane Vorpagel, Department of Fish and Game (via webinar)

Facilitation Team: Stephanie Lucero, Tribal Facilitator; Judie Talbot, Facilitation Support - CCP